

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**TRUSTEES OF OHIO BRICKLAYERS
HEALTH AND WELFARE FUND, et al.,**

Plaintiffs,

**Civil Action 2:18-cv-262
Judge Michael H. Watson
Magistrate Judge Jolson**

v.

JT MASONRY CONSTRUCTION, LLC,

Defendant.

REPORT AND RECOMMENDATION

This is an action for unpaid fringe benefit contributions, statutory interest, and other damages. After Defendant was served and failed to plead or otherwise defend this action, Plaintiffs applied to the Clerk for entry of default. (Doc. 5). The Clerk entered default pursuant to Federal Rule Civil Procedure 55(a) on April 25, 2018. (Doc. 6). Plaintiffs filed a Motion for Default Judgment on May 8, 2018. (Doc. 7).

Upon review, it is **RECOMMENDED** that Plaintiffs' Motion for Default Judgment (Doc. 7) be **GRANTED** and judgment be entered in favor of Plaintiffs and against Defendant as follows:

1) A monetary judgment entered in favor of Trustees of Ohio Bricklayers Health and Welfare Fund against JT Masonry Construction LLC in the amount of \$11,075.73, which represents unpaid fringe benefit contributions, liquidated damages, and interest found due and owing through April 30, 2018 on such contributions under the applicable collective bargaining agreements, plan documents, and ERISA with post judgment interest pursuant to 28 U.S.C.

§1961;

2) A monetary judgment entered in favor of Trustees of Bricklayers Pension Fund of West Virginia against JT Masonry Construction LLC in the amount of \$5,424.08, which represents unpaid fringe benefit contributions, liquidated damages, and interest found to be due and owing through April 30, 2018 under the applicable collective bargaining agreements, plan documents, and ERISA with post judgment interest pursuant to 28 U.S.C. §1961;

3) A monetary judgment entered in favor of Bricklayers and Trowel Trades International Pension Fund and International Masonry Institute against JT Masonry Construction LLC in the amount of \$9,784.78, which represents unpaid fringe benefit contributions, liquidated damages, and interest found to be due and owing through April 25, 2018 under the applicable collective bargaining agreements, plan documents, and ERISA with post judgment interest pursuant to 28 U.S.C. §1961;

4) A monetary judgment entered in favor of Plaintiffs Trustees of Ohio Bricklayers Health and Welfare Fund, Trustees of the Bricklayers Pension Fund of West Virginia, Trustees of the Bricklayers and Trowel Trades International Pension Fund, and Trustees of the International Masonry Institute against JT Masonry Construction LLC in the amount of \$6,758.95 as an award of attorneys' fees, litigation expenses, and costs pursuant to 29 U.S.C. §1132;

5) A judgment that JT Masonry Construction LLC comply with the Funds' auditor's request to examine and review the documents necessary to complete a payroll audit and turn over all documents requested by the Plaintiffs within 7 days of such request; and

6) A permanent injunction against JT Masonry Construction LLC pursuant to Section 502(g)(2)(E) of ERISA prohibiting future violations of Section 515 of ERISA, 29

U.S.C. §1145, with respect to all Funds. (*See* Doc. 7).

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: May 9, 2018

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE